

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE BAIR HUGGER FORCED AIR  
WARMING PRODUCTS  
LIABILITY LITIGATION

MDL No. 15-md-2666 (JNE/DTS)

This Document Relates to:

**ORDER**

15-cv-04363, Kent  
16-cv-02501, Phillips  
16-cv-03283, Daniels  
16-cv-03315, Squires  
16-cv-03416, Schenkel  
16-cv-04153, Janowicz  
16-cv-04236, Serra  
17-cv-00101, Anderson  
17-cv-00216, Huberty  
17-cv-00423, Clement  
17-cv-00638, Walls  
17-cv-01153, Wills  
17-cv-01627, Messin  
17-cv-01839, Romesburg  
17-cv-02210, Wyatt  
17-cv-02512, Dunn  
17-cv-02720, Bass  
17-cv-02782, Goddard  
17-cv-03156, Shepard  
17-cv-03246, Williams  
17-cv-03249, Wright  
17-cv-03370, Jones  
17-cv-03405, Tyler  
17-cv-03677, Fairbanks  
17-cv-03683, Brown  
17-cv-03698, Little  
17-cv-03860, Baldaseroni  
17-cv-04122, Abbott  
17-cv-04242, Huey  
17-cv-04444, Ruiz  
17-cv-04535, Fehr  
17-cv-04639, Guess  
17-cv-04799, Stubbs  
17-cv-05195, Blake  
18-cv-00666, Brown-Dring  
18-cv-00834, Collins  
18-cv-00877, Keithley

18-cv-00916, Foltz  
18-cv-00992, Williams  
18-cv-01222, Ellis  
18-cv-01483, Feimster  
18-cv-01593, Williams  
18-cv-02358, Sommer  
18-cv-02823, Rudd  
18-cv-02934, Fairfax  
18-cv-03039, Smith  
18-cv-03078, Ishmell  
18-cv-03382, Brennan  
19-cv-01263, Wallace  
19-cv-01370, Hillmon  
22-cv-01056, Shoop  
22-cv-01404, Jackson  
22-cv-03095, Swanson  
23-cv-01106, Studt  
23-cv-01406, Stehm  
23-cv-02439, Robinson  
23-cv-03028, Wise  
24-cv-00293, Krapfl  
24-cv-00517, Craft  
24-cv-00560, Graham  
24-cv-00787, Walker  
24-cv-01262, Wood  
24-cv-01315, Enos  
24-cv-02196, Braggs  
24-cv-02978, Elliott  
24-cv-03322, Bernard

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**NOTICE OF AND ORDER FOR PRETRIAL CONFERENCE**

Pursuant to Rule 16(a) of the Federal Rules of Civil Procedure, a pretrial conference will be held before United States Magistrate Judge David T. Schultz on **July 15, 2025, at 10:00 a.m.** in Courtroom 9W in the United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

**Meeting of Counsel**

Lead Counsel for each case must meet at least seven days before the scheduled pretrial conference pursuant to Rule 26(f) of the Federal Rules of Civil Procedure under Local Rule 26.1. At the meeting counsel shall consider and discuss each item on the Rule 26(f) report form attached, including the following:

1. Whether Plaintiff(s) wish to proceed with the case. If Plaintiff(s) do not wish to proceed with the case, a voluntary dismissal with prejudice must be filed no later than two days before the scheduled pretrial conference.
2. A report on the status of the Plaintiff's Fact Sheet, and the exchange of all Plaintiffs' medical records.
3. Anticipated motions that may resolve the case or narrow the issues.
4. A statement of Trial Readiness.

In addition, the Parties shall discuss (and come prepared to discuss at the Rule 16 conference) the following discovery limitations:

1. Fact Discovery Limitations:
  - a. Fact discovery will close 3 months from the issuance of the Rule 16 scheduling order.
  - b. Each party may take no more than 20 hours of fact deposition testimony.
  - c. Each party may serve no more than:
    - i. 15 document requests; and
    - ii. 25 interrogatories.
  - d. No general causation discovery may be taken.
  - e. No extensions of the schedule will be granted absent extraordinary circumstances.
  - f. The Court will discuss a streamlined discovery motion procedure.
2. Expert Discovery:
  - a. Each side may depose the other side's specific causation and damages experts.
  - b. Plaintiffs' expert reports shall be served 2 months after the close of fact discovery.
  - c. Defendants' expert reports will be served one month after Plaintiff's expert reports are due.
  - d. All expert depositions will be completed 5 months after the close of fact discovery.

### **Consent to the Magistrate Judge**

If both parties consent to trial by the magistrate judge pursuant to 28 U.S.C. § 636(c) they must provide the information included on the Rule 26(f) report, execute the attached consent form and electronically file said form pursuant to Section II, Part F, of the ECF Procedures for the District of Minnesota (Civil). Consent to the jurisdiction of the Magistrate Judge does not waive any party's right to a jury trial or to an appeal.

### **In-Person Appearances**

Lead counsel must appear in-person at the Rule 16 conference.

### **Other**

Counsel should contact Magistrate Judge Schultz's Courtroom Deputy, Serge Bodnarchuk, at 612-664-5460, with respect to any matters concerning the pretrial conference.

Dated: June 30, 2025

s/ David T. Schultz  
DAVID T. SCHULTZ  
U.S. Magistrate Judge

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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x,

Case No. x-cv-x (x/DTS)

Plaintiff,

v.

**RULE 26(F) REPORT**

x,

Defendant.

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The parties/counsel identified below conferred as required by Fed. R. Civ. P. 26(f) and the Local Rules on \_\_\_\_\_ and prepared the following report.

The initial pretrial conference required under Fed. R. Civ. P. 16 and LR 16.2 is scheduled for x x, at x a.m. before United States Magistrate Judge David T. Schultz in Courtroom 9E, United States Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

Counsel have reviewed the amendments to the Federal Rules of Civil Procedure effective December 1, 2015 and are familiar with the amendments.

**TRIAL BY MAGISTRATE JUDGE**

28 U.S.C. § 636(c) permits parties to consent to the jurisdiction of the magistrate judge for all pre-trial and trial proceedings. Parties who consent to the magistrate judge **do not** waive their right to a jury trial or their right to appeal directly to the Eighth Circuit from any judgment that is entered. They will also retain the ability to engage in a settlement conference presided over by a magistrate judge in this district. **If, but only if, the parties consent to the magistrate judge they may request a date certain for trial set at the Rule 16 conference, and a date certain for trial will be set at that time.**

The parties **do/do not** consent to jurisdiction of the magistrate pursuant to 28 U.S.C. § 636(c).

The parties **do/do not** wish to receive a date certain for trial at the Rule 16(a) conference?

## **DESCRIPTION OF THE CASE**

1. Concise factual summary of Plaintiff's claims:
2. Concise factual summary of Defendant's claims/defenses:
3. Statement of jurisdiction (including statutory citations):
4. Summary of factual stipulations or agreements:
5. Statement of whether a jury trial has been timely demanded by any party:
6. Statements as to whether the parties agree to resolve the matter under the Rules of Procedure for Expedited Trials of the United States District Court, District of Minnesota, if applicable:

## **PLEADINGS**

Statement as to whether all process has been served, all pleadings filed and any plan for any party to amend pleadings or add additional parties to the action:

## **FACT DISCOVERY**

The parties request the Court to establish the following fact discovery deadlines and limitations:

1. Plaintiff(s) served a completed Plaintiff's Fact Sheet on \_\_\_\_\_. Plaintiff must confirm that a reasonable and good faith effort was made to obtain the information requested in the Plaintiff Fact Sheet by the submission deadline.
2. The parties have exchanged or will exchange all of Plaintiff's medical records in their possession by \_\_\_\_\_.
3. The parties must make their initial disclosures under Fed. R. Civ. P. 26(a)(1) on or before \_\_\_\_\_. If the parties include a description by category and location of documents, they agree to exchange copies of those initially disclosed.
4. The parties must complete any physical or mental examinations under Fed. R. Civ. P. 35 by 10/31/25.
5. The parties must commence fact discovery procedures in time to be completed by 10/31/25.
6. The parties have discussed the scope of discovery, including relevance and proportionality, and propose that the Court limit the use and numbers of discovery procedures as follows:
  - a. 25 interrogatories;
  - b. 15 document requests;

- c. 25 requests for admission. The parties have discussed a protocol for the authentication of documents and agree on the following:
- d. 20 hours of depositions:
- e. 1 Rule 35 medical examination; and
- f. The parties have discussed the topic of Rule 30(b)(6) deposition practice and have made the following agreements: \_\_\_\_\_.

### **EXPERT DISCOVERY**

- 1. The parties anticipate that they [will/will not] require expert witnesses at the time of trial.
  - a. The Plaintiff anticipates calling \_\_\_\_\_ (number) experts in the fields of:
  - b. The Defendant anticipates calling \_\_\_\_\_ (number) experts in the fields of:
- 2. The parties propose that the Court establish the following plan for expert discovery:
  - a. Expert Disclosures
    - (i) The identity of any expert who Plaintiff may call to testify at trial and the written report completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) and/or the disclosure required by Fed. R. Civ. P. 26(a)(2)(C) must be served on or before 12/3/25.
    - (ii) The identity of any expert who Defendant may call to testify at trial and the written report completed in accordance with Fed. R. Civ. P. 26(a)(2)(B) and/or the disclosure required by Fed. R. Civ. P. 26(a)(2)(C) must be served on or before 1/31/26.
- 3. All expert discovery, including expert depositions, must be completed by 3/31/26.

### **OTHER DISCOVERY ISSUES**

- 1. This Court has already entered a protective order and ESI protocol that governs these cases. See Pretrial Order Nos. 7, 10, MDL Dkt. Nos. 39, 50. The protective order in place also addresses the protection of inadvertent production of privileged materials. See Pretrial Order No. 7 ¶ 5, MDL Dkt. No. 39.

## MOTION SCHEDULE

The parties proposed the following deadlines for filing motions:

1. Motions seeking to join other parties must be filed and served by \_\_\_\_\_.
2. Motions seeking to amend the pleadings must be filed and served by \_\_\_\_\_.
3. Non-Dispositive Motions
  - a. All non-dispositive motions relating to *fact* discovery must be filed and served by to be discussed at conference.
  - b. All other non-dispositive motions, including motions relating to *expert* discovery, must be filed and served by to be discussed at conference.
4. Dispositive Motions:
  - a. The parties anticipate that they may file the following motions that may resolve the case or narrow the issues:
  - b. All dispositive motions must be served and filed by to be discussed at conference.

## TRIAL

1. The parties agree that the case will be ready for trial on or after \_\_\_\_\_.
2. The anticipated length of the [bench/jury-select one] trial is \_\_\_ days.

Dated: \_\_\_\_\_

Plaintiff's Counsel

License No. \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Dated: \_\_\_\_\_

Defendants' Counsel

License No. \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_